

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	Chapter 11
L.P.	§	
	§	Case No. 19-34054-sgj11
Debtor.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. No. 21-03010-sgj
	§	
HIGHLAND CAPITAL MANAGEMENT	§	
FUND ADVISORS, L.P. and NEXPOINT	§	
ADVISORS, L.P.,	§	
	§	
Defendants.	§	

STIPULATION AND AGREED ORDER EXTENDING STAY OF JUDGMENT

I. STIPULATION

NexPoint Advisors, L.P. (“NexPoint”) and Highland Capital Management Fund Advisors, L.P. n/k/a NexPoint Asset Management, L.P. (“HCMFA,” together with NexPoint, the “Judgment Debtors”), hereby stipulate and agree as follows with Highland Capital Management, L.P. (the “Judgment Creditor”):

WHEREAS, on September 14, 2022, the Court, in the above styled and numbered Adversary Proceeding (the “Adversary Proceeding”), entered that certain *Judgment* at Docket No. 126 (the “Judgment”) against the Judgment Debtors and in favor of the Judgment Creditor;

WHEREAS, on October 11, 2022, the Court entered that certain *Agreed Order Conditionally Staying Judgment Pending Appeal* at Docket No. 141 (the “Stay Order”);

WHEREAS, the Stay Order provided for a conditional stay pending appeal of the Judgment provided that the Judgment Debtors posted certain security, or deposited funds into the Registry of the Court, by October 7, 2022: as to NexPoint, in the amount of \$898,464.00, and as to HCMFA, in the amount of \$1,878,217.60;

WHEREAS, on October 7, 2022, NexPoint filed that certain *Supersedeas Bond*, Bond No. SU 1188705 issued by Arch Insurance Company, to secure the Judgment in the amount of \$898,464.00, filed at Docket No. 139 (the “NexPoint Bond”), and on the same day HCMFA filed that certain *Supersedeas Bond*, Bond No. SU 1188704 issued by Arch Insurance Company, to secure the Judgment in the amount of \$1,878,217.60, filed at Docket No. 140 (the “HCFMA Bond”), and the Clerk received the originals of the NexPoint Bond and the HCMFA Bond on October 13, 2022 as noted at Docket Nos. 142 and 143;

WHEREAS, upon the filing of the NexPoint Bond and the HCMFA Bond, the collection and execution of the Judgment was stayed to the extent provided for in the Stay Order (the “Stay”);

WHEREAS, the Stay Order provides that the Stay shall terminate on March 15, 2024, unless the Judgment Debtors provide additional security by way of bond or cash deposit to extend the Stay past March 14, 2024;

WHEREAS, NexPoint represents that it has obtained an *Increase Rider* increasing the NexPoint Bond to \$927,696.00 (the “NexPoint Rider”), and HCMFA represents that it has obtained an *Increase Rider* increasing the HCMFA Bond to \$1,939,326.40 (the “HCMFA Rider”);

WHEREAS, the Judgment Creditor agrees that, upon filing of the NexPoint Rider, the Stay shall continue through March 14, 2025 as to NexPoint, and that, upon filing of the HCMFA Rider, the Stay shall continue through March 14, 2025 as to HCMFA.

II. ORDER

Having considered the above Stipulation, incorporating its definitions into this Order, and finding the Stipulation appropriate and lawful, it is hereby:

ORDERED that, provided that NexPoint files the executed NexPoint Rider on the docket of this Adversary Proceeding on or before March 14, 2024, the Stay shall continue through March 14, 2025 as to NexPoint; it is further

ORDERED that, provided that HCMFA files the executed HCMFA Rider on the docket of this Adversary Proceeding on or before March 14, 2024, the Stay shall continue through March 14, 2025 as to HCMFA; it is further

ORDERED that the Judgment Debtors shall, promptly after receipt of the NexPoint Rider and the HCMFA Rider, deposit the originals of the same with the Clerk of the Court; it is further

ORDERED that the Stay, as so extended through March 14, 2025, shall nevertheless and in all events terminate sooner and immediately: (i) if no appeal of the Judgment is filed appealing the District Court's mandate affirming the Judgment to the United States Court of Appeals for the Fifth Circuit by the deadline for so doing, then fourteen (14) days after such deadline expires; and (ii) if such an appeal is timely filed with the United States Court of Appeals for the Fifth Circuit and that court issues a mandate affirming the Judgment prior to March 14, 2025, then the date on which such court issues said mandate; it is further

ORDERED that the Court shall retain jurisdiction to the maximum extent possible over this Order, including enforce the Judgment through all collection and other proceedings upon the expiration of the Stay, and to compel any surety on a supersedeas bond to pay such bond to the Judgment Creditor, including through the NexPoint Bond, the NexPoint Rider, the HCMFA Bond, and the HCMFA Rider.

END OF ORDER

AGREED:

MUNSCH HARDT KOPF & HARR, P.C. By: <u>/s/ Davor Rukavina</u> Davor Rukavina, Esq. Texas Bar No. 24030781 Julian P. Vasek, Esq. Texas Bar No. 24070790 4000 Ross Tower 500 N. Akard Street Dallas, Texas 75202-2790 Telephone: (214) 855-7500 Facsimile: (214) 978-4375 drukavina@munsch.com jvasek@munsch.com ATTORNEYS FOR NEXPOINT ADVISORS, L.P. AND HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.	PACHULSKI STANG ZIEHL & JONES LLP By: <u>/s/ John A. Morris (w/ permission)</u> Jeffrey N. Pomerantz (CA Bar No. 143717) John A. Morris (NY Bar No. 2405397) Gregory V. Demo (NY Bar No. 5371992) Hayley R. Winograd (NY Bar No. 5612569) 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067 Telephone: (310) 277-6910 Facsimile: (310) 201-0760 Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com ATTORNEYS FOR HIGHLAND CAPITAL MANAGEMENT, L.P.
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